IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

WP(C).No. 29003 of 2007(C)

PETITIONER:

K.MOHAMMED ABDUL RAHIMAN,
MANAGER, V.V.A.L.P.SCHOOL,
KARAKKUTHANGADI, MUTHUTHALA-PATTAMBI,
PALAKKAD DISTRICT-679314.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY, DEPARTMENT OF GENERAL EDUCATION,
THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM.

3. THE ASSISTANT EDUCATIONAL OFFICER,
PATTAMBI, PALAKKAD DISTRICT.

BY GOVT. PLEADER SRI.A.J.VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P (C).NO. 29003 OF 2007 - C

Dated this the 4th day of October, 2007

J U D G M E N T

The petitioner is the Manager of an aided school. He is seeking a direction to the third respondent to treat the admission of students as per Ext.P5 list as regular and to count them also for staff fixation without insisting on production of birth certificates. The contention is that by virtue of Rule 1 of Chapter VI of the Kerala Education Rules, even if the application for admission is not accompanied by a certified extract from the Register of Births showing the date of birth of the pupil, admission can be made on the basis of a declaration from the parent/guardian or from a registered medical practitioner regarding the date of birth of the pupil. He therefore submits that insistence by the third respondent for production of birth certificate for regularising the admission is against the provisions of Chapter VI of the K.E.R.

2. I have heard the learned Government Pleader also. He submits that since the registration of births has been made compulsory under the Registration of Births and Deaths Act, the petitioner cannot submit that he should be permitted to admit students without production of birth certificates. He further points out that the permission to make admission on the basis of declaration from the parent or guardian is only in cases where it is satisfactorily explained to the Headmaster why the certified extract cannot be produced and it does not give absolute discretion to the Headmaster or the manager to make admission without certified extract from the Register of Births as stated in Rule 1 of Chapter VI of the K.E.R.

3. I have considered the rival contentions. By Ext.P4 judgment, a learned Judge of this Court had in a batch of writ petitions held that the educational authorities cannot insist on production of birth certificate for regularisation of admission, unless Rule 1 of Chapter VI of the K.E.R. is suitably amended making

production of birth certificates compulsory for admission. In Rule 1, the headmaster need only be satisfied as to why the extract cannot be produced. That being so, I am in full agreement with Ext.P4. Therefore, without amendment of the rule, the third respondent cannot insist on the production of birth certificate for the purpose of regularisation of admission of the students mentioned in Ext.P5 list. Accordingly, the writ petition is allowed and I direct the third respondent to treat the admission of the students in Ext.P5 list as regular and reckon them also for the purpose of staff fixation.

sd/-
S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED: 07-09-2007